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CAHN & SAMUELS, LLP 1100 17th STREET, NW SUITE 401 WASHINGTON, DC 20036			EXAMINER FLEISCHER, MARK A	
			ART UNIT 3624	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/725,735	Applicant(s) BOSS ET AL.	
	Examiner MARK A. FLEISCHER	Art Unit 3624	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 February 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 31-50 and 61-67 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 31-50 and 61-67 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Status of Claims

1. This final Office action is in reply to the amendments filed on 12 June 2009.
2. Claims 31–33, 39, 41 – 50, 62 and 63 have been amended.
3. Claims 1-30 and 51–60 have been cancelled.
4. Claims 61–67 have been previously added.
5. Claims 31–50 and 61–67 are currently pending and have been examined.

Examiner's Note

6. The invention, as disclosed in the instant application, is directed to the development of an audience influenced divergent storyline involving graduated ticket pricing, audience preferences, exclusion of certain audience groups, and a weighted voting scheme where audience members paying higher premiums have greater influence in the future storyline evolution. The instant application may disclose patentable subject matter however not all of the disclosed potentially patentable subject matter is recited in the claims. An interview with the examiner may be productive and Applicant is encouraged to request a phone interview with the Examiner.

Response to Amendments

7. The rejections of claims 31 – 39 under 35 U.S.C. §101 are withdrawn in light of Applicant's amendments.
8. The rejections of claims 41 – 50 under 35 U.S.C. §101 are maintained for reasons set forth below.
9. The rejections of claims 62 and 63 under 35 U.S.C. 112, 2nd paragraph are withdrawn in light of Applicant's amendments.
10. The rejections of claims 66 and 67 under 35 U.S.C. 112, 2nd paragraph are maintained for reasons set forth below.

Response to Arguments

11. Applicant's arguments received on 12 June 2009 have been fully considered but they are not persuasive. Referring to the previous Office action, Examiner has cited relevant portions of the references as a means to illustrate the systems as taught by the prior art. As a means of providing further clarification as to what is taught by the references used in the first Office action, Examiner has expanded the teachings for comprehensibility while maintaining the same grounds of rejection of the claims, except as noted above in the section labeled "Status of Claims." This information is intended to assist in illuminating the teachings of the references while providing evidence that establishes further support for the rejections of the claims. Applicant's arguments received on 3 December 2008 have been fully considered but they are moot in view of Applicant's amendments. Nevertheless, in an effort to further explain and clarify the action taken herein, Examiner offers the following observations in response to Applicant's arguments. This information is intended to assist in illuminating the teachings of the references while providing evidence that establishes further support for the rejections of the claims.
12. Applicant argues that the prior art of record does not teach the more interactive influence

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capability “during the presentation of the storyline” (Remarks, p.10). This feature however has been taught by new art applied in Oko as shown in the rejections below. See e.g., Oko [3,33]. Applicant further argues that the prior art does not teach the method steps of “accumulates said at least one vote and selects at least one logical branch, associated with the accumulated votes, from the plurality of available branches creating an interactive storyline in real time.” (Remarks, p.12). Again, reference to the prior art indicated in combination with the teachings of Oko provide these elements including those pertaining to weighted voting (see e.g., Oko [3,25] *inter alia* and in other instance regarding poll weighting and the purchase of weighted tokens in [5,49]).

Claim Rejections - 35 USC § 101

13. 35 U.S.C. §101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

14. Claims 41-50 are rejected under 35 U.S.C. §101 because the claimed invention is directed to non-statutory subject matter.

Based on Supreme Court precedent, and recent Federal Circuit decisions, the Office's guidance to examiners is that a §101 process must (1) be tied to another statutory class (such as a particular apparatus) or (2) transform underlying subject matter (such as an article or materials) to a different state or thing. *Diamond v. Diehr*, 450 U.S. 175, 184 (1981); *Parker v. Flook*, 437 U.S. 584, 588 n.9 (1978); *Gottschalk v. Benson*, 409 U.S. 63, 70 (1972); *Cochrane v. Deener*, 94 U.S. 780, 787-88 (1876). An example of a method claim that would not qualify as a statutory process would be a claim that recited purely mental steps. Thus, to qualify as a §101 statutory process, the claim should positively recite the other statutory class (the thing or product) to which it is tied, for example by identifying the apparatus that accomplishes the method steps, or positively recite the subject matter that is being transformed, for example by identifying the material that is being changed to a different state.

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- The preamble of independent Claim 41 is not a process, machine, manufacture, or composition of matter, or any improvement thereof wherein a process claim is sufficiently tied to another statutory class. These claims as written attempt obtain a patent on instructions which are not patentable subject matter under §101. Examiner's earlier suggestions were presupposed the amended language be inserted so that the preamble reads as follows: "a computer-executable program product comprising computer executable instructions tangibly embodied on a computer readable medium that when executed by said computer perform the method steps comprising..." is a suggestion for how to bring this claim into compliance with 35 U.S.C. 101 because "a computer-executable program product tangibly embodied on a computer readable medium" is statutory subject matter.

Claim Rejections - 35 USC § 112

15. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

16. Claims 66 and 67 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- Claims 66 and 67 recite the terms 'local' and 'remote' respectively and are relative terms which render the claims indefinite. These terms are not defined by the claim, nor does the specification provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

Claim Rejections - 35 USC § 103

17. The following is a quotation of 35 U.S.C. §103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

18. Claims 31–35, 39, 41–45 and 49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Minneman (US 6243740 B1) in view of Williams (US 20020178442 A1) and further in view of Oko, Jr., et al. (US 6947966 B1).

Claims 31 and 41:

Minneman, as shown, describes and/or discloses the following limitations.

- *A method for selecting a logical branch in a storyline among a plurality of available storyline branches on a computing device* (Minneman, in at least the abstract states: “The public [...] communicates, via the device or devices, a signal indicative of their reactions and for effecting a prospective scene selection in the document content that, in turn will vary the narrative.” (emphasis added) where ‘communicates ...indicative...for effecting’ corresponds to *a method for selecting*. Minneman, in at least [0005] (column 1, lines 50-1), further describes systems and methods that “have been devised for the private direction of a narrative story through a number of alternative paths and endings [...]” (emphasis added) where ‘paths’ corresponds to *available storyline branches*.),

Minneman does not specifically describe obtaining votes, *per se*, but Williams, as shown, does.

- *based on voters' votes* (Williams, in at least [0030] states: “Two weeks later the audience votes for Ending 1.” (emphasis added) where ‘audience votes’ corresponds to *voters' votes*.), *comprising*:
- *presenting a storyline having a plurality of possible future storyline branches to a plurality of voters* (see previous paragraph);
- *accumulating the votes from the voters on a computing device during the presentation of the storyline* (Williams, in at least [0007]: states: “Audience feedback that influences

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programming content may be collected directly from weekly audience polling [...]" (emphasis added) which corresponds to the limitation. Williams [0044] states "For purposes of advertiser interest/economics, audience feedback gathered from the website/portals and other real-time data is of premium value. While, as described above, such immediate feedback is valuable for determination of preferred character traits, for determination of preferred storyline development and for creation of a more dynamic means of storytelling; such immediate feedback can better enable marketers to market their product by having immediately available information on audience preferences, show/character popularity, audience buying-habits, and, or course, audience web-browsing habits." (emphasis added). Note also in [0042] "Second, the invention allows the production staff to obtain viewer feedback immediately after --and, for some purposes, during--show broadcast." (emphasis added));

- *accumulating votes from said voters for a continuing future storyline branch during the presentation of said storyline* (see previous paragraph);
- *calculating a total for the accumulated votes* (this is inherent in 'audience polling', *i.e.*, the very notion of 'polling' and 'voting' directly implies tallying or summing or counting votes); *and*
- *selecting a winning tally that corresponds to one of the plurality of available storyline branches; selecting said corresponding storyline branch of the plurality of available storyline branches, during the presentation of the storyline, as the future storyline branch, based on the accumulated votes* (Williams, in at least [0023-30] states: "Two days later, the audience answers are tallied and the most popular answers are [...] Two weeks later the audience votes for Ending 1." (emphasis added) where 'are tallied' corresponds to *accumulated votes* and 'most popular' corresponds to *selecting a winning tally*...and 'audience votes for Ending 1' corresponds to the winning *storyline branch*).

Neither Minneman nor Williams specifically teach accumulating voters votes so as to affect the evolution of a storyline, *per se*, but Oko, in an analogous art does. Oko [2,44] states "...to allow

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network users network users to purchase voting 'tokens' of different values indicative of the weight of the vote to be used by network users in influencing the outcome of a particular broadcast.” (emphasis added). Minneman’s, Williams’ and Oko’s inventions all pertain to utilizing audience participation in modifying the evolution of a storyline. Therefore, it would have been obvious to one with ordinary skill in the art at the time of the invention to combine the inventions of Minneman and Williams and Oko to create a more interactive system as this affords producers an opportunity to increase audience participation and thereby garner greater commercial success for their advertising sponsors.

Claims 32 and 42:

Minneman does not specifically describe and/or disclose the following limitation, but Williams, as shown, does.

- *transferring the selected storyline branch to a content branching system* (Williams, in at least [0021] states: “[T]he [Online Request] is storyline-content that originates within the audience’s imagination and then later is culled and incorporated by the staff into the show’s storyline.” (emphasis added) where ‘storyline-content’ corresponds to *storyline branch* and ‘culled ... by the staff’ corresponds to *a content branching system* that manages the storyline branch. The ‘incorporation’ of the storyline indicate those events have not occurred within the story, hence is a *future storyline branch*.)

Minneman’s and Williams’ inventions both pertain to utilizing audience participation in modifying the evolution of a storyline. Therefore, it would have been obvious to one with ordinary skill in the art at the time of the invention to combine the inventions of Minneman and Williams to create a more interactive system as this affords producers an opportunity to increase audience participation and thereby garner greater commercial success for their advertising sponsors.

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Claims 33 and 43:

Minneman does not specifically describe and/or disclose the following limitation, but Williams, as shown, does.

- *displaying the transferred [future] storyline branch* (Williams, in at least [0006]: states: “[T]he invention queries will be prescribed to directly determine the show's story line [...]” (emphasis added) where ‘show's story line’ corresponds to *displaying* ... See also the rejections of claims 32 and 42 above.).

Minneman's and Williams' inventions both pertain to utilizing audience participation in modifying the evolution of a storyline. Therefore, it would have been obvious to one with ordinary skill in the art at the time of the invention to combine the inventions of Minneman and Williams to create a more interactive system as this affords producers an opportunity to increase audience participation and thereby garner greater commercial success for their advertising sponsors.

Claims 34 and 44:

Minneman further describes and/or discloses the following limitation.

- *selectively excluding votes for a specific storyline branch* (Minneman, in at least [0028] (col. 8, line 55) states: “Alternative embodiments of the invention include directional voting, wherein custom antennas with directional qualities will attend to signals coming from one set of viewers whilst rejecting signals from another.” (emphasis added) where ‘rejecting signals from another’ corresponds to *selectively excluding*. Note that in Minneman in at least [0008] (col. 2, line 10), reference is specifically made to story branches, hence, the aforementioned ‘rejecting ... from another’ corresponds to effectuating changes in the storyline by possibly excluding certain voters’ votes.)

Claims 35 and 45:

Minneman further describes and/or discloses the following limitation.

- *selectively excluding votes for a specific storyline branch comprises excluding the votes within a predetermined period of time before the specific storyline branch occurs* (Minneman, in at least claim 9 claims “monitoring the signals in accordance with

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predetermined conditions for recognizing the reaction by a predominant public interest expressed as a voting measured by the plurality of signals;" (emphasis added) and in dependent claim 11 states: "the video elements including tokens for indicating a time for the communicating of the signals." (emphasis added) where 'predetermined conditions' pertain to 'voting' and within some '[indicated time]'. Note that this voting scheme includes the exclusion capability described in Minneman [0028] (col. 8, line 55) and thereby meets the limitation.

Claims 39 and 49:

Minneman [0022] teaches use of a selected storyline, to wit: "After the selected scene is played out..." (emphasis added), but does not specifically describe and/or disclose the following limitations, but Williams, as shown, does.

- *saving a record of the selected storyline branch for later replay* (Williams, in at least [0030] states: "Two weeks later the audience votes for Ending 1. The show is now in the hands of the Editor who is instructed to use Ending 1 for the "Answering Machine Dilemma" scene." (emphasis added) where the 'instruction' and reference to an 'Editor', *ipso facto* requires some method of *saving a ... storyline ... for later replay*.)

Minneman's and Williams' inventions both pertain to utilizing audience participation in modifying the evolution of a storyline. Williams' invention also indicates some inventory of scenes for later use. Therefore, it would have been obvious to one with ordinary skill in the art at the time of the invention to combine the inventions of Minneman and Williams to create a more interactive, and efficient system as this affords producers an opportunity to increase audience participation and thereby garner greater commercial success for their advertising sponsors.

19. Claims 36–38 and 46–48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Minneman/Williams/Okon and further in view of Chisholm (US 5400248 A).

Claims 36 and 46:

Minneman/Williams also describes and/or discloses that *votes are weighted* where Williams, in at least [0053] states: "As an incentive for fan club membership, fans may be granted weighted

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voting rights." (emphasis added). Minneman/Williams, however do not describe and/or disclose determining if the votes are weighted, where the act of *determining* is not specifically mentioned. Chisholm, however, as shown, does describe and/or disclose this element of the limitation. Chisholm, in claims 38 and 39 claim a method where "determining which voter input signals were most critical in obtaining a prescribed set of results; [...] determining which voter input signals were least critical in obtaining a prescribed set of results [...]" (emphasis added) where the noted criticality corresponds to a weighting. Note that Chisholm also specifically mentions weighted voting as in [0017]: "Votes need not be weighted equally." and further in [0011] that "the vote administrator weights voter x's vote by the factor $W(x)$..." where the 'administrator', *ipso facto*, *determines* whether a particular vote is to be weighted. Moreover, Oko in at least [2,43] teaches the purchase of voting tokens with different values that give voters different weights hence the ability to influence the outcomes to different degrees. See also Oko [3,25] referring to different weights.

Therefore, it would have been obvious to one with ordinary skill in the art at the time of the invention to combine the teachings of Minneman/Williams/Oko with that of Chisholm to describe a flexible system that allows management of audience choices and how they are to be weighted because it creates a more interactive system and affords producers an opportunity to increase audience participation and thereby garner greater commercial success for their advertising sponsors.

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Claims 37 and 47:

Minneman/Williams do not specifically describe and/or disclose the following limitation, but Oko and Chisholm do as shown.

- *if the votes are weighted, selectively multiplying the votes by respective weight factors (See the rejections of the above claims 36, 47 and 57 wherein Chisholm specifically refers to weighting factor "W(x)". Oko in at least [2,43] teaches the purchase of voting tokens with different values that give voters different weights hence the ability to influence the outcomes to different degrees. See also Oko [3,25] referring to different weights.).*

Therefore, it would have been obvious to one with ordinary skill in the art at the time of the invention to combine the teachings of Minneman/Williams/Oko with that of Chisholm to articulate a flexible system that allows management of audience choices and how they are to be weighted because it creates a more interactive system and affords producers an opportunity to increase audience participation and thereby garner greater commercial success for their advertising sponsors.

Claims 38 and 48:

Minneman and Williams and Oko do not specifically describe and/or disclose the following limitations, but Chisholm, as shown, does.

- *determining if additional votes remain to be accumulated; and wherein if additional votes remain to be accumulated, repeating an accumulation of the votes until all the votes have been incremented (Chisholm, in at least [0066] states: "Then the system passes through the list again and evaluates all new votes [...] This process is repeated until an iteration occurs on which no new votes are determined. If all votes in the group have been determined by this process (step I), the system is finished and the results are displayed." (emphasis added) where 'the system' in 'repeating a process' corresponds to *repeating an accumulation*. Also, Chisholm claim 12 specifically refers to *accumulating* where "controller means, coupled to said computer system and said plurality of voting units, for accepting or*

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rejecting additional voter input signals [...]" (emphasis added) where the 'controller means' that '[accepts] or [rejects] additional voter [] signals' corresponds to adding additional votes.

Therefore, it would have been obvious to one with ordinary skill in the art at the time of the invention to combine the teachings of Minneman/Williams/Okon with that of Chisholm to articulate a flexible system that allows management of audience choices and how they are to be weighted and also to ensure that all relevant voters' votes are tabulated because it creates a more interactive and *accurate* system and thus affords producers an opportunity to increase audience participation, in a reliable manner, and thereby garner greater commercial success for their advertising sponsors.

Claims 40 and 50:

Minneman and Williams do not specifically describe and/or disclose the following limitations, but Okon and Chisholm, as shown, do.

- *the votes are weighted based on a graduated ticket pricing [...weighing the votes based on ticket pricing]* (Williams, in at least [0006] specifically refers to a "movie". In at least [0053], Williams further states: "Fan club membership, subscription newsletters (on and offline) and other premium fan portal services. As an incentive for fan club membership, fans may be granted weighted voting rights." (emphasis added) where a 'fan club' corresponds to a movie goer, and 'premium ... portal services' corresponds to a particular level and *graduated ticket pricing* which are *weighted* in a fashion based on 'premium [] services' obtained such as entrance to a movie theater. Okon in at least [2,43] teaches the purchase of voting tokens with different values that give voters different weights hence the ability to influence the outcomes to different degrees. See also Okon [3,25] referring to different weights.)

Therefore, it would have been obvious to one with ordinary skill in the art at the time of the invention to combine the teachings of Minneman/Williams/Okon with that of Chisholm to articulate a flexible system that allows management of audience choices and how they are to be weighted

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and also to ensure that all relevant voters' votes are tabulated because it creates a more interactive system, one which allows participants the opportunity to influence the outcome based on an admission fee (ticket) and thus affords producers an opportunity to increase audience participation and thereby garner greater commercial success for their advertising sponsors.

Claim 61:

Minneman, as shown, describes and/or discloses the following limitations.

A system for the dynamic selection of a logical branch from a plurality of available branches in a storyline recorded on an electronic medium comprising:

- *a media center that presents to a voter recorded media having a plurality of available logical branches (See the rejection of claims 31 and 41. Minneman [0010] also refers to "mass media systems");*

Minneman does not specifically describe obtaining votes, *per se*, but Williams, as shown, does.

- *at least one computer coupled to said media center, said computer also being coupled to said at least one voter through a voter interface (Williams [0015-6] teaches use of computers that act as web portals, hence a voter interface.);*
- *said at least one computer having programming code to accumulate and process votes from said at least one voter (See the rejection of claims 31 and 41.);*
- *wherein during the presentation of said recorded media having a plurality of available logical branches said computer receives at least one vote through said voter interface means, accumulates said at least one vote and selects at least one logical branch, associated with the accumulated votes, from the plurality of available branches creating an interactive storyline in real time (See the rejection of claims 31 and 41. Williams [0044] states "For purposes of advertiser interest/economics, audience feedback gathered from the website/portals and other real-time data is of premium value. While, as described above, such immediate feedback is valuable for determination of preferred character traits, for determination of preferred storyline development and for creation of a more dynamic means of storytelling; such immediate feedback can better enable marketers to market their product by having immediately available information on*

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audience preferences, show/character popularity, audience buying-habits, and, or course, audience web-browsing habits.” (emphasis added). Note also in [0042] “Second, the invention allows the production staff to obtain viewer feedback immediately after --and, for some purposes, during--show broadcast.” (emphasis added));

Minneman's and Williams' inventions both pertain to utilizing audience participation in modifying the evolution of a storyline. Therefore, it would have been obvious to one with ordinary skill in the art at the time of the invention to combine the inventions of Minneman and Williams to create a more interactive system as this affords producers an opportunity to increase audience participation and thereby garner greater commercial success for their advertising sponsors.

Claim 62:

Minneman, as shown, describes and/or discloses the following limitations.

- *a media version matrix generated by recording the at least one logical branch selected during the presentation of said recorded media having a plurality of available logical branches* (Minneman [figure 6] describes and/or discloses a truth table indicating the next scene sequence.).

Neither Minneman nor Williams specifically teach *recorded media having* said logical branches, but Oko, in an analogous art does. Oko [4,50] refers to a pre-recorded performance. See also Oko [7,17] *inter alia* regarding presentation of such pre-recorded media depending upon poll results. Finally, Oko [9,26] *inter alia* provides for user preferences based on advertiser sponsored polling to influence storylines. Therefore, it would have been obvious to one with ordinary skill in the art at the time of the invention to combine the inventions of Minneman and Williams and Oko to create a more interactive system as this affords producers an opportunity to increase audience participation and thereby garner greater commercial success for their advertising sponsors and the technical capability existed at the time of the invention to combine such teachings and the results of such combination was predictable.

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Claim 63:

Minneman, as shown, describes and/or discloses the following limitations.

- *said at least one computer specifies a particular previously selected storyline from said plurality of possible storylines to be presented to a voter through said media center by recalling said version matrix associated with said recorded logical branch* (see the rejection of claim 62. In addition, Minneman [0022] "With reference to FIG. 6, a representative portion of a truth table for the "JULIE'S DREAM" episode is shown. In the first line of the truth table it can be seen that if a tumbler combination of the color red, the word "need", and the base image "eye" were clicked by the observers, the next scene would be the one entitled "Everyone is Nervous." After the selected scene is played out, the display returns to the image of Julie for the selection of the next tumbler combination. (23) The alternative implementations of the system as either the "Julie's Dream" embodiment of FIGS. 3, 4 and 6, or the character image sequencing of FIG. 5 are just two examples of how public interaction with the system effects [sic] the creation of new scene sequences and narratives." (emphasis added). See also Minneman [0006] regarding a description of computer systems that allow multi-user interaction with commonly displayed visual images.).

Neither Minneman nor Williams specifically teach *recorded media having* said logical branches, but Oko, in an analogous art does. Oko [4,50] refers to a pre-recorded performance. See also Oko [7,17] *inter alia* regarding presentation of such pre-recorded media depending upon poll results. Finally, Oko [9,26] *inter alia* provides for user preferences based on advertiser sponsored polling to influence storylines. Therefore, it would have been obvious to one with ordinary skill in the art at the time of the invention to combine the inventions of Minneman and Williams and Oko to create a more interactive system as this affords producers an opportunity to increase audience participation and thereby garner greater commercial success for their advertising sponsors and the technical capability existed at the time of the invention to combine such teachings and the results of such combination was predictable.

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Claim 64:

Minneman, as shown, describes and/or discloses the following limitations.

- *said at least one computer coupled to said media center includes at least one portable device* (Minneman [0010-12] teaches use of portable radio devices and key fobs and other components for generating signals.).

Claim 65:

Minneman, as shown, describes and/or discloses the following limitations.

- *said voter interface is said at least one portable device* (see the rejection of claim 64 and note that in cited text in Minneman these devices are used for voting recognition.)

Claim 66:

Minneman, as shown, describes and/or discloses the following limitations.

- *said voter interface is a device local to said media center* (see Minneman [0005-6] regarding the close proximity of people to a display in which portable signaling devices are used.).

Claim 67:

- *said voter interface is remote from said media center* (Minneman [0017] describes remote controls which serve as an interface.).

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Conclusion

THIS ACTION IS MADE FINAL. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry of a general nature or relating to the status of this application or concerning this communication or earlier communications from the Examiner should be directed to **Mark A. Fleischer** whose telephone number is **571.270.3925**. The Examiner can normally be reached on Monday-Friday, 9:30am-5:00pm. If attempts to reach the examiner by telephone are unsuccessful, the Examiner's supervisor, **Bradley Bayat** whose telephone number is **571.272.6704** may be contacted.

The prior art made of record and not relied upon that is considered pertinent to applicant's disclosure are:

- Logan, et al. (US PgPub 20030093790 A1),
- Wind (US PgPub 20040009813 A1),
- Osborn, Brian, "An Agent-Based Architecture For Generating Interactive Stories",
- Shields, et al. (US 5737527)
- Bejan, et al. (US 5465384)

which teach methods for enabling divergent storylines and /or audience participation wherein storylines and/plots are dynamically modified.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from

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either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://portal.uspto.gov/external/portal/pair> <<http://pair-direct.uspto.gov>>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at **866.217.9197** (toll-free).

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to **571-273-8300**.

Hand delivered responses should be brought to the **United States Patent and Trademark Office Customer Service Window:**

Randolph Building

401 Dulany Street

Alexandria, VA 22314.

Mark A. Fleischer
/Mark A Fleischer/
Examiner, Art Unit 3624

13 October 2009

/Bradley B Bayat/
Supervisory Patent Examiner, Art Unit 3624